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March 9, 1995

VIA COURIER

William A. Caton
Acting Secretary
Federal Communications Commission
1919 M Street N.W.
Room 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: Opus Correctional Inc. d/b/a LocTel Comments in CC Docket No. 94-158


Dear Mr. Caton:

Enclosed for filing, on behalf of Opus Correctional Inc. d/b/a LocTel ("LocTel"), are an original and four (4) copies of LocTel's Comments filed in response to the Commission's Notice of Inquiry in CC Docket No. 94-158.

Please date-stamp the enclosed extra copy of the Comments and return it to me in the attached self-addressed, stamped envelope.

Should you have any questions concerning this filing, please do not hesitate to contact me.

Respectfully submitted,



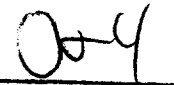
Dana Frix
Michael C. Wu
Opus Correctional Inc. d/b/a LocTel

Enclosures

cc:

Andrew D. Lipman, Esq. (w/out encl.)
Jean L. Kiddoo, Esq. (w/out encl.)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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MAR 9 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Amendment of Policies and Rules)

Concerning Operator Service)

Providers and Call Aggregators)

CC Docket No. 94-158

DOCKET FILE COPY ORIGINAL

COMMENTS OF OPUS CORRECTIONAL INC. D/B/A LOCTEL

Opus Correctional Inc. d/b/a LocTel ("LocTel"), a provider of specialized telecommunications services to inmate facilities throughout the United States, including facilities under the authority of the U.S. Department of Justice, Division of Federal Bureau of Prisons,¹ hereby submits, by its undersigned counsel, its comments on the Commission's February 8, 1995 Notice of Proposed Rulemaking and Notice of Inquiry ("NOI") in the above referenced proceeding.²

I. INTRODUCTION AND STATEMENT OF INTEREST

LocTel strenuously opposes the application of the rules applicable to alternate operator services ("AOS") available at public and semi-public locations to inmate telephone services. Reversal of the Commission's well-grounded decision to exclude inmate-only telephones from the AOS regulations in its *Report and Order* in CC Docket No. 90-313³ would be contrary to

¹ As a result of a federal court decision mandating that the U.S. Department of Justice, Federal Bureau of Prisons ("FBOP") provide collect calling service to inmates at FBOP institutions, LocTel has assumed responsibility for collect call services as part of the Inmate Telephone System ("ITS") which is being installed at FBOP federal correctional institutions nationwide.

² FCC 94-352 (rel. February 8, 1995).

³ *Policies and Rules Concerning Operator Service Providers, Report and Order*, CC Docket No. 90-313, 6 FCC Rcd. 2744 (1991) ("AOS Order"); *Order on Reconsideration*, 7 FCC

the public interest. Indeed, the current regulatory regime applicable to inmate telephone services has served the public interest exceptionally well since its adoption by the Commission and, therefore, need not be changed. Specifically, under the current regulatory structure, competition has flourished in the inmate telephone industry, resulting in increased access to telephones by inmates, higher telephone service quality for inmates, and technological progress that has tailored inmate telephone services to the specific needs of controlled prison environments.⁴

LocTel is an industry leader in the provision of specialized telecommunications services to correctional institutions throughout the nation. Unlike the majority of carriers operating today, LocTel has substantial experience and expertise in serving inmate phone service needs at correctional facilities at the state, county, municipal, and federal level. As a provider of specialized inmate calling services, LocTel has substantial expertise with which to evaluate the potential impact of AOS rules on the quality, security and cost of inmate telephone services deployed nationwide.

As further detailed below, LocTel urges the Commission to continue to exempt inmate phone services from AOS regulations. The Commission's *AOS Order* correctly recognized that "the provision of [inmate phone] services presents an exceptional set of circumstances that warrant their exemption from [AOS] regulation."⁵ In particular, the needs of correctional institutions and the public at large to prevent abusive and fraudulent collect and/or third party

Rcd. 3882 (1992).

⁴ The Commission notes in the NOI that it is currently considering applying Billed Party Preference to inmate phone services. LocTel submits that the reasons for exempting inmate phone services from AOS regulation apply with equal force to exemption of inmate phone services from Billed Party Preference.

⁵ *AOS Order*, 6 FCC Rcd. at 2752.

calls from inmates warrant the continued exemption for the niche inmate services market. Further, if the AOS rules are applied to the inmate service market, the quality of, and access to, inmate telephone services throughout the nation would be greatly reduced to the detriment of the public interest. For the same reasons, the Commission should refrain from applying its Billed Party Preference rules to inmate phone services.

II. EXISTING REGULATORY REGIME SHOULD BE RETAINED

A. The Exceptional Set of Circumstances Surrounding Inmate Phone Services Remain the Same

As noted above, in its well-reasoned *AOS Order*, the Commission has previously recognized that inmate telephone services are distinct from traditional aggregator service calls made by the public or transient users, and therefore should not be regulated in the same way. As commenters in the AOS proceeding correctly recognized, the "exceptional set of circumstances" involving inmate phone services include the requirement that inmate-only phones allow only collect calls, and that phone numbers of certain individuals such as judges, jurors, and witnesses be blocked.⁶ Such facts and circumstances surrounding inmate telephone services have not changed in the intervening four-year period. Accordingly, there is no basis for changing this well-established Commission regulatory regime.

B. Technological Advances in Inmate Telephone Services are the Result of the Existing Regulatory Regime

LocTel submits that the inmate telephone industry's successful record of achievement provides a sound basis for the Commission to refrain from modifying its current regulatory regime governing such telephone services. LocTel and other inmate telephone services providers

⁶ 6 FCC Rcd. at 2749.

have made substantial technical progress in tailoring inmate telephone services to the specific needs of controlled prison environments pursuant to contracts entered into with prison authorities. For instance, LocTel's phone services include automated collect call services specially designed for the controlled prison environment. At each facility it serves, LocTel deploys state-of-the-art equipment and service features to maximize the prison authority's control over inmate telephone services. Through sophisticated monitoring functions, LocTel's inmate telephone services successfully minimize abuse of the equipment by inmates, and prevent the perpetration of fraud and other criminal activity by inmate callers. Because LocTel's inmate telephone services involve fully automated collect calling functions and call screening and blocking features, they prevent harassment of live operators and called parties by inmates. LocTel couples deployment of these safeguards with a carefully managed quality control program for its communications transmission services to ensure that those telephone services that are available to inmates are reliable, accessible, and reasonably priced. These "cutting edge" technological advances are the direct result of the existing regulatory regime, which provides competitive incentives for continued service and technological improvements.

C. The Current Regulatory Regime Serves the Public Interest Because the Benefits of Competition Accrue to Prison Authorities and Inmates Alike

As a result of the advances pioneered by carriers such as LocTel, as noted above, the inmate telephone industry today is one of the most competitive telephone markets, which ensures that prison authorities continue to receive the type of high quality services and competitive rates they require. Correctional facilities typically issue requests for proposal ("RFPs") for their inmate presubscription contracts every several years. Bidding for such contracts is fierce, and inmate authorities have a wide range of choices in selecting a successful bidder. In LocTel's

experience, before they commit to a contractual arrangement with an interexchange carrier for inmate telephone services, correctional administrators demand strict proof that a carrier can provide a high level of service and equipment quality, including demonstrated assurance that the telephones and services to be deployed at a facility will not invite the perpetration of fraud or other criminal activity by inmates, or otherwise impair the carefully controlled environment of a prison facility. In addition, normally the RFPs mandate the competitiveness of inmate calling rates.

Under the existing regulatory environment, presubscription arrangements for inmate calling services serve the specialized needs of correctional administrators because they enable each correctional administrator to negotiate for the specific features they require to maximize control and monitoring capabilities over inmate use of the available telephone services. Moreover, the presubscription system provides the added benefit of competitive incentives for constant service improvement. If a carrier selected by a correctional administrator fails to deliver the specialized service quality and security features required by the prison in order to provide high quality, reasonably priced telephone services and to prevent fraud, harassment and other criminal activity, the competitive marketplace for inmate telephone services allows the prison administrator the opportunity to select a competitor for provision of those features. Thus, the presubscription system provides competitive incentives to all inmate telephone service providers to make constant feature upgrades and maintain overall quality of services provided, or risk losing major accounts.

Today, the proven public interest benefits of competition have convinced the vast majority of states to eliminate many of the restrictions against competition for intrastate

telecommunications services. This, combined with increased interest in the confinement market by local exchange carriers ("LECs")⁷ and interexchange carriers of every size, has introduced a level of competition not previously anticipated. Such competition has introduced public interest benefits in the form of more sophisticated telephone systems and lower rates at all levels including the municipal and county level.

Requiring inmate telephone providers to adhere to the Commission's aggregator regulations would result in a severe technological set back that would degrade service quality and security in controlled correctional environments. Similarly, rather than improving upon the service quality features already available today under presubscription arrangements, Billed Party Preference ("BPP") would also degrade service quality and security. BPP would not afford as high a level of control and careful monitoring of the transmission path of all inmate telephone calls as systems deployed today by specialized inmate providers such as LocTel. The equipment and service providers' ability to provide collect call control equipment to correctional facilities will be severely curtailed, if not totally eliminated. That is, if the providers cannot anticipate and directly control all operational aspects of the call to the destination party, including the ability to control fraud generated through uncollectibles, it will be immediately unprofitable for a call control equipment or service provider to continue offering this service under current arrangement of shared commission with a correctional organization.

⁷ Until recently, LECs generally were unable to provide any of the call completion protections afforded by centralized and automated telephone systems offered by carriers such as LocTel.

III. REVISING THE COMMISSION'S REGULATIONS WILL INCREASE FRAUD, HARASSMENT AND OTHER CRIMINAL ACTIVITY

LocTel submits that if the existing regulatory environment is modified so that inmate telephone providers and correctional institutions are forced to abide by the Commission's Rules for aggregators, an enormous increase in toll fraud by prisoners would result. Since the Commission's aggregator rules are designed to increase consumer access to operator services of choice they are incompatible with the requirements established by prison authorities for inmate telephone services, which restrict telephone user access to operator services to avoid fraud and abuse. Similarly, BPP would render uneconomical the use of many fully automated, secure inmate calling systems with a proven track record of virtually eliminating fraud, and preventing harassment and other criminal activity. Increased fraud and uncollectibles would inevitably result from the shift of inmate calls into the public network.

In order to minimize fraudulent or harassing calls, correctional telephone systems are designed to ensure that inmates are prevented from completing all calls except automated collect calls. Applications of the Commission's aggregator rules, as is suggested by the *NOI*, would, by definition, preclude such anti-fraud and abuse protections. For instance, the Commission's Rules prohibit aggregators from blocking access to 800 and 950 access code numbers to obtain access to any provider of operator services.⁸ Permitting inmate access to such services would simply invite toll fraud and abuse.⁹ As such, the exact reasons that led the Commission in the

⁸ See 47 C.F.R. § 64.704.

⁹ Toll fraud, a continuous and substantial problem for correctional facilities and inmate service providers, contributes to increasing the costs of providing service to inmates. Under the existing regulatory environment, the costs of toll fraud is borne by the inmate service provider, which ultimately contributes to inmate telephone rates. Treating inmate service providers such

AOS Order to exempt inmate telephone providers from aggregator requirements would be circumvented. Accordingly, inmate telephone services should continue to be exempt from AOS regulations.

Likewise, BPP will send inmate calls to the LEC operator services switch (like all other 0+ interLATA calls) for carrier identification before the call is sent to the appropriate interexchange carrier. At that point, absent significant network redesign, equipment installation, and routing changes by interexchange carriers, the interexchange carriers' live operator will have to handle the completion of the collect calls.¹⁰ Under the BPP scenario, it will be incumbent upon every interexchange carrier receiving inmate collect calls to train their live operators in the proper prevention of harassment and fraud by inmate callers. BPP will require interexchange carriers live operators to handle inmate collect calls -- whether they are equipped to handle them properly or not.

LocTel submits that experience has proven that, no matter how competent, live operators are simply not up to the formidable task of dealing with inmate populations. Even the best trained live operators can on occasion be persuaded by inmate callers to complete fraudulent or

as aggregators (and consequently allowing inmates access to the public switched network) will increase toll fraud while simultaneously spreading the effects of toll fraud (*i.e.*, higher rates) to the general public.

¹⁰ In addition, even were the interexchange carrier ("IXC") to be able to route an inmate call to an automated system, BPP would still degrade the currently available inmate calling systems. Since calls would be routed to IXCs which have no preexisting relationship with the correctional facility, the automated IXC systems would not have access to the call processing information necessary to meet the specialized inmate telephone system needs of, for example, blocking to particular numbers. Moreover, given the elimination of the economic benefits engendered by the presubscription system, it is highly unlikely that the correctional authority could justify the expense of an automated system on the front end of calls to accomplish those tasks.

harassing telephone calls -- which is precisely why corrections administrators have embraced wholly automated, secure telephone features for inmate calling services, and now often expressly demand wholly automated system deployment in presubscription arrangements. Based on its substantial experience in serving this specialized market, LocTel believes that a return to live operator handling of inmate calls will substantially increase fraud and harassment, and place added "phone policing" burdens on LECs, IXC's, and prison administrators -- which today's automated systems have either successfully eliminated or substantially minimized. For these reasons, LocTel submits that it would be a great leap backward to revise the current regulation of the inmate telephone services market (by either applying BPP or the AOS), since the handling of inmate collect calls will be far less reliable and secure -- and invite increased fraud and harassment -- if live operators are required for their completion.¹¹

Mandating BPP or the AOS rules in the inmate environment will impair the substantial progress and economic justification which LocTel and other interexchange carriers serving the niche inmate telephone services market have already developed toward maximizing prison

¹¹ Even if a LIDB-based anti-fraud service provided by the LECs under tariff could successfully prevent inmate service fraud, such a service is not likely to prevent harassment from occurring through inmate interaction with live operators. Moreover, reliance on LIDB services to combat fraud may lead to counterproductive finger-pointing by LECs, IXC's, and prison administrators if the LIDB anti-fraud service is not -- or is not perceived to be -- totally effective. LocTel doubts that such a network-based anti-fraud service can be as effective as CPE-based, automated systems which prevent fraud from happening at the source at far less overall cost and complexity than BPP. Unlike network-based solutions which often require coordination among different carriers and parties to be successful in combatting fraud, the CPE-based solutions and other features deployed today by the presubscribed IXC's serving prisons can be rapidly upgraded and adjusted as necessary for institutions that experience particularly severe problems. Where a single, preselected IXC has the responsibility to carry all inmate collect calls from a particular facility, it is far simpler to isolate fraud when it happens, and much easier and less time-consuming to halt this practice at the source.


administrator control over inmate telephone uses, eliminating opportunities for inmates to commit fraud and to participate in other criminal activity, and preventing inmates from making harassing calls to live operators and members of the public.

IV. CONCLUSION

For the reasons discussed above, LocTel respectfully submits that the public interest requires that the Commission continue to regulate inmate telecommunications services under its current regulatory regime. Accordingly, the Commission should continue to treat inmate telephone service providers differently from general aggregator services, and refrain from applying BPP to inmate telephone services. Such changes would significantly decrease the level of competition that currently exists in the inmate telephone service industry to the detriment of the public interest.

Respectfully submitted,

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